

# COUNCIL COMING ATTRACTIONS



## **Week of December 11, 2017**

**County Fiscal Plan, Roadway Solicitation, Small Business Innovation, Brewing & Distilling, Performance Animals, Payments to Service Providers & Gang Prevention**



Council Coming Attractions is a summary of some of the issues before the Council. All Council staff reports and additional information on each item scheduled for Council or Committee review can be viewed at:

<http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html> .

The Council meeting schedule may change from time to time. The current Council and Committee agendas can also be viewed at:

<http://www.montgomerycountymd.gov/COUNCIL/ondemand/index.html> .



The Council meeting will begin at 9:30 a.m. on Dec. 11 with a proclamation presentation from Councilmember Hucker recognizing Rose Crenca.

## **COUNCIL**



### **County Fiscal Plan and Economic Indicators**

The Council is scheduled to receive an update and discuss the County's Fiscal Plan and economic indicators. Jennifer Hughes, Director, Office of Management and Budget, and Alex Espinosa, Director, Department of Finance, and their colleagues will participate in the discussion. The Council approved the County's first six-year Fiscal Plan in 2010. Each June since then the Council

has taken similar action. The Fiscal Plan is then updated every year in December, three months before the release of the Executive's next recommended budget. Updates to economic indicators and revenue projections may result in a six-year plan that is more or less constrained than the one approved by the Council in June. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7216&meta\\_id=147067](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7216&meta_id=147067).

- Resources available to allocate to fiscal year 2019 (FY19) agency budgets will be limited. OMB reports that FY19 resources available for agencies will be \$208 million (4.8%) below FY18 resources. "Maintenance of effort laws limit the extent to which education budgets are affected by any resource shortfalls. The result is that the fiscal plan projects resources available to fund County Government and the Maryland-National Capital Park and Planning Commission (M-NCPPC) in FY19 will be 11.8% below the FY18 level (shortfalls of \$189.1 million and \$14.7 million, respectively). The updated revenue projections for the six-year period (FY18-23) are \$417 million below the projections from just five months ago."
- The County's Chief Administrative Officer has already asked departments and agencies to propose (mid-year) FY18 operating budget savings of at least 2%. The FY19 operating budget guidance to departments, which was updated on December 8, indicates that departments should identify operating budget savings of 2.5% for public safety and 4% for all other departments. Ms. Hughes has also stated that "further reductions and other gap closing measures are very likely to be needed."
- The Council will review the economic data and discuss the driving factors causing this shortfall, in light of other positive economic indicators.
  - The November unemployment rate is 3.1%, down from 3.4% one year ago.
  - October resident employment was 551,000, up from 537,000 in October 2016.
  - In March 2016 payroll/at-place employment was 460,000, and that number rose to 466,000 in March 2017.
  - Other measures of payroll employment show growth accelerating in the second and third quarters of calendar year 2017.
  - The broad-based S & P 500 index rose 20.4% during the twelve months ending on November 30. Furthermore, the County's fiscal strength and financial management were once again factors in the decisions by all three major bond rating agencies to reconfirm the County's AAA rating in October.



### **Zoning Text Amendment 17-07, Light Manufacturing and Production – Brewing and Distilling**

The Council is scheduled to vote on ZTA 17-07. The Planning, Housing and Economic Development (PHED) Committee unanimously recommends approval with two amendments. The first amendment would clarify that brewing and distilling would be allowed in Commercial Residential Neighborhood (CRN) zoned properties. The second amendment would allow odors from "food or beverage production" in light industrial areas. Council President Riemer is the lead sponsor. Councilmembers Leventhal, Hucker, Katz, Rice, Navarro and Berliner are co-sponsors. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7216&meta\\_id=147069](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7216&meta_id=147069).

ZTA 17-07 would revise the definition and standards for light manufacturing and production. It would allow for brewing and distilling alcoholic beverages under certain circumstances that are more permissive. The ZTA would allow light manufacturing and production uses as a limited use in the Commercial/Residential zones.

- In 2013 the Night Time Economy Task Force, which included ex officio members Council President Riemer and Councilmembers Elrich and Floreen, recommended a policy of self-distribution for breweries. These recommendations and subsequent State legislative changes resulted in a significant number of breweries establishing businesses in the County.

- The Department of Permitting Service’s interpretation of “Artisan Manufacturing” allows the annual production of up to 50,000 gallons of distilled liquor in certain Commercial/Residential mixed-use zones. For companies that grow or are at greater production levels, between 50,000 and 100,000 gallons of distilled liquor is allowed in Commercial/Residential and Employment Office zones. More than 100,000 gallons of distilled liquor is allowed in heavy manufacturing zones.
- ZTA 17-07 would codify what has been allowed by the Department of Permitting Services interpretation. In addition, it would allow up to 22,500 barrels per year of brewing in the Commercial/Residential zones.



#### **Zoning Text Amendment 17-08, Bed and Breakfast – Historic Buildings**

The Council is scheduled to vote on ZTA 17-08. The PHED Committee recommends approval. Councilmembers Floreen and Leventhal and Council President Riemer are the lead sponsors. Councilmember Rice is a co-sponsor. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7216&meta\\_id=147071](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7216&meta_id=147071) .

ZTA 17-08 would revise the definition and requirements for bed and breakfast operations. It would provide more permissive standards for bed and breakfast establishments when this use is established in historic buildings. The ZTA would allow owners to provide up to ten rooms for bed and breakfast establishments and permit food services for guests.



#### **Bill 39-17, Streets and Roads – Roadway Solicitation and Distribution – Prohibition**

The Council is scheduled to introduce Bill 39-17. The lead sponsor is Councilmember Rice. A public hearing is scheduled for Jan. 30 at 1:30 p.m. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7216&meta\\_id=147073](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7216&meta_id=147073) .

Bill 39-17 would prohibit a person from standing in a roadway to solicit, sell, or distribute any material to certain occupants of motor vehicles under certain conditions and generally regulate solicitation or distribution by pedestrians of occupants of motor vehicles in the roadway.



#### **Expedited Bill 40-17, Personnel – Merit System – Salary and Wage Plans – Police Leadership Service**

The Council is scheduled to introduce Expedited Bill 40-17. Council President Riemer is the lead sponsor, at the request of the County Executive. A public hearing is scheduled for Jan. 16 at 1:30 p.m. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7216&meta\\_id=147075](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7216&meta_id=147075) .

Bill 40-17 would modify the uniform salary plan for sworn police managers to include a salary schedule for a Police Leadership Service (PLS) like the Management Leadership Service. The bill would authorize the Chief Administrative Officer to establish the PLS for lieutenants and captains in the Department of Police by method 1 regulation.



#### **Bill 41-17, Economic Development Fund - Small Business Innovation Research and Small Business Technology Transfer Matching Grant Program – Established**

The Council is scheduled to introduce Bill 41-17. Councilmember Leventhal is the lead sponsor. A public hearing is scheduled for Jan. 16 at 1:30 p.m. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7216&meta\\_id=147079](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7216&meta_id=147079) .

Bill 41-17 would establish a Small Business Innovation Research and Small Business Technology Transfer Matching Grant Program and define eligibility for the program. The Small Business Innovation Research Grant (SBIR) and the Small Business Technology Transfer Grant (STTR) are two different congressionally-mandated grant programs for U.S. small businesses who engage in research and development that has a strong potential for commercialization. Bill 41-17 would establish a County matching grant for those County-based small businesses that receive either a Phase I or Phase II grant under either the SBIR or the STTR from the National Institutes of Health.

The County grant would be limited to 25% of a Phase I grant up to \$25,000 or 25% of a Phase II grant up to \$75,000. A grantee would be limited to 1 County matching grant each year and a total of 5 County matching grants under this program.



### **Bill 23-17, Animal Control – Performance Animal – Violations**

The Council is scheduled to vote on Bill 23-17. The lead sponsors are Councilmembers Rice and Leventhal. The Public Safety (PS) Committee unanimously recommends enactment with the following amendments:

- Delete all of the proposed new definitions in Section 5-101- Definitions (lines 6-35).
- Delete all of the proposed changes to Section 5-201- Cruelty (lines 47-56).

Amend Section 5-202 - Dangerous and potentially dangerous animals by:

- Correcting the reference to the exception provision (line 60).
- Adding an exception for animals in the possession of an animal sanctuary and particular marsupials (lines 71-79)

Add a new Section 5-204 - Traveling Animal Act – Prohibition with the following provisions:

- Definitions for the terms “exhibition” (lines 84 – 87), “mobile or traveling housing facility” (lines 88-91), “traveling animal act” (lines 92- 94), and “wild animal” (lines 95-110).
- Prohibit a person or business from charging guests or visitors a fee to attend the exhibition of a wild animal in a traveling animal act (lines 111-112).
- Provide the authority for the County Executive to issue regulations (lines 113-114).

The Council staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7216&meta\\_id=147081](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7216&meta_id=147081).

Bill 23-17 would: define the term exhibit and performance animal; prohibit the exhibition of performance animals; authorize the Animal Control Division to take enforcement action for a prohibited act; and amend the provisions concerning animal cruelty. The sponsors of Bill 23-17 want to protect the welfare of wild animals by removing the financial incentives to exhibit such animals.



### **Expedited Bill 33-17, Employees’ Retirement Savings Plan – Disability Benefits Plan – Termination of Benefits – Amendments**

The Council is scheduled to vote on Expedited Bill 33-17. The Government Operations and Fiscal Policy (GO) Committee recommends enactment. The Council President is the lead sponsor, at the request of the Executive. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7216&meta\\_id=147083](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7216&meta_id=147083).

Expedited Bill 33-17 would increase long-term disability benefits from age 65 to 70. The County’s Office of Management and Budget estimates that the County’s annual cost to extend benefits to age 70 would be \$420,000. The annual total cost to all employees would be \$140,000 or \$2.22 per month per employee.

- This increase in employee benefits was negotiated between the Executive and MCGEO. In addition to the eligible employees represented by MCGEO, the bill would increase the disability benefit for eligible non-represented employees, including elected officials.



### **Bill 35-17, Finance – Payments to Service Providers**

The Council is scheduled to vote on Bill 35-17. The Health and Human Services (HHS) Committee recommends enactment with amendments to designate the Director of HHS as the individual who will calculate the payment amount and that the calculation of the amount is subject to Council appropriation. Councilmember Berliner is the lead sponsor. All other Councilmembers are co-sponsors. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7216&meta\\_id=147085](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7216&meta_id=147085).

Expedited Bill 35-17 would:

- define terms related to the annual supplement to certain providers of services to persons with developmental disabilities (currently provided through the budget resolution);
- require that a payment be made to eligible providers each year, to the extent that funds are appropriated;
- require the Director of Health and Human Services, in setting the amount of the payment, to consider the State reimbursement rates to service providers and the additional operating support needed to allow each service provider to pay direct service workers, on average, 125 percent of the County minimum wage;
- establish eligibility standards for a provider to receive the payment, including demonstrating to the Department of Health and Human Services that it pays direct service workers at a rate specified in the Council's current operating budget resolution; and
- provide for the issuance of method (2) regulations to administer the law.

For many years, the County has chosen to pay a supplement to certain providers of direct services to individuals with developmental differences because the State's reimbursement rates do not consider the higher cost of living in the County. While most organizations used the additional funding to increase wages, there was no requirement or reporting on whether the funds were being used for this purpose.

- In FY16, additional funding was added so that supplemental funds would allow organizations to pay workers at least 25 percent above the minimum wage. In FY17, the Council specified that 100 percent of the supplement was to be used to ensure that workers received, on average, at least 125 percent the County's minimum wage.

## COMMITTEE



### **Gang Prevention Strategies**

On Dec. 11 at 10:30 the Public Safety and Health and Human Services Committee will continue their discussion of gang prevention strategies. The following individuals are expected to participate in this meeting: Gabe Albornoz, Director, Department of Recreation; JoAnn Barnes, Chief, Children, Youth and Family Services; Department of Health and Human Services (DHHS) Luis Cardona, Youth Violence Prevention Coordinator, DHHS; and Josh Watters, Office of Management and Budget. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&event\\_id=7501&meta\\_id=146944](http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&event_id=7501&meta_id=146944). Council staff recommendations begin on page 3.

In October, Council Vice President Navarro sent a memorandum to the County Executive requesting a more holistic approach to dealing with gang prevention and suppression efforts. On November 27, the HHS and PS Committees met jointly to discuss the status of gang prevention and intervention strategies. The Committees were provided with three proposals for enhanced prevention and intervention services. Council staff was asked to confer with Executive branch staff and return to the Committees with advice and recommendations on any proposals for new funding. Some of the follow up issues for the Committees to consider as they make their recommendations are as follows:

- In the context of the recent gang-related criminal activity and concern about gang recruitment, is there a target population that more urgently needs increased access to programs and services?
- What are the gaps in family strengthening and stabilization services?
- How should the County pro-actively partner with the faith community in efforts to help prevent gang activity and serve young people at risk of gang involvement?



### **Zoning Text Amendment 17-13, Exemptions – Public Taking**

On Dec. 11 at 2 p.m. the PHED Committee will review ZTA 17-13. Councilmember Floreen is the lead sponsor. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/Viewer.php?view\\_id=169&event\\_id=7502&meta\\_id=146946](http://montgomerycountymd.granicus.com/Viewer.php?view_id=169&event_id=7502&meta_id=146946).

The 2014 Zoning Ordinance did not grandfather a lawful structure located on a lot that is reduced in area by public acquisition which means that such an acquisition could cause a structure to become nonconforming. ZTA 17-13 would retain the pre-acquisition, legal status of the property. The ZTA is recommended by Council and Executive staff for situations where less than an entire property is publicly acquired.



#### **Zoning Text Amendment 17-14, Walls and Fences – Setback Exemption**

The Committee also will review ZTA 17-14. Councilmember Leventhal is the lead sponsor. The staff report can be viewed at:

[http://montgomerycountymd.granicus.com/Viewer.php?view\\_id=169&event\\_id=7502&meta\\_id=146948](http://montgomerycountymd.granicus.com/Viewer.php?view_id=169&event_id=7502&meta_id=146948).

Currently, the County Zoning Ordinance exempts fences and walls from setback requirements, if the height of the structure is 6.5 feet or lower. A landowner who wants a higher fence is either required to meet the setback requirement or to apply for a variance. The sponsor believes that when the owner of residentially zoned property abuts a non-residentially zoned property (in commercial/residential, employment, or industrial zones), an 8-foot fence should be allowed without a setback or variance.